

BOARD OF APPEALS
for
MONTGOMERY COUNTY

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
(240) 777-6600

Case No. S-24-C

PETITION OF NATIONAL CENTER FOR CHILDREN AND FAMILIES

(Formerly known as The Baptist Home for Children)

OPINION OF THE BOARD

(Hearing held November 28, 2001)
(Effective Date of Opinion: March 1, 2002)

BACKGROUND

This is a petition for a special exception modification pursuant to Section 59-G-2.21 (Charitable or Philanthropic Institution) of the Zoning Ordinance to permit the following modifications to an existing special exception:

- 1) name change of the special exception holder from the Baptist Home for Children to the National Center for Children and Families;
- 2) modification of the existing Greentree Training Facility ("Training Facility") which includes expansion of the basement to full size and construction of a second-floor addition with a 10 foot increase in height, for a total building area of 11,600 square feet and a total height of 26 feet;
- 3) construction of a two-story Multi-Purpose Building (the Family Activities Center) consisting of 20,415 square feet and connected to the Training Facility and existing Greentree Shelter building, with accompanying lighting and landscaping;
- 4) modification of the existing Boys' Dormitory by construction of a 255 square foot addition along the southern end of the building for a total new area of 4,950 square feet;
- 5) construction of a pedestrian colonnade with lighting along the central commons area to connect all of the buildings;
- 6) construction of a pedestrian path from the Property to Bradmoor Drive;
- 7) construction of a sidewalk between the two dormitories;
- 8) renovation of the parking plan to provide for 17 new spaces and a total of 75 parking spaces, including a renovated parking lot in the front of the Property with 39 spaces, two new parking areas at the rear of the Property with a total of 36 spaces, a new service and loading area located behind the Training Facility, reconfiguring of the entrance off of Greentree Road, repaving of the access drive from the front parking lot to the rear parking, with accompanying landscaping and lighting, and relocation of the existing basketball court in the rear of the Property; and

- 9) elimination of the prior condition requiring a one-year review hearing.

Pursuant to §59-A-4.11 of the Zoning Ordinance, the Board of Appeals held a public hearing on November 28, 2002 in this case.

Emily J. Vaias of Linowes and Blocher LLP appeared on behalf of the National Center for Children and Families (the "Petitioner"). Four (4) witnesses were by called by Petitioner in support of the application: (1) Gray Gentil, land planner and site designer; (2) William Smith, architect; (3) John Russell, development consultant; and (4) Dr. Sheryl Chapman, Executive Director of Petitioner.

Martin Klauber, the People's Counsel of Montgomery County, Maryland, also participated in the proceedings in support of the Petitioner's request to modify this special exception, as conditioned.

An adjoining neighbor, Patricia Buhl, testified regarding landscaping and lighting and submitted a letter and photographs (Exhibit Nos. 39, 40A & 40B). She also submitted a letter from other neighbors regarding community involvement in the ongoing operations of Petitioner (Exhibit No. 38).

Decision of the Board: Special exception modification **GRANTED**, subject to the Conditions enumerated below.

EVIDENCE PRESENTED

1. The subject property (the "Property") is approximately 12.48 acres, zoned R-60, and located at 6301 Greentree Road, Bethesda, Maryland (the "Property").
2. The Property is owned by the Petitioner and was originally an orphanage for dependent children and has been at its current location since 1930. In 1971 the Board of Appeals approved a Special Exception for an eleemosynary and philanthropic institutional use in Case No. S-24, and allowed the addition of two dormitory buildings to house 20 residents for a total of 62 residents on the Property. In 1995, the Board of Appeals approved a Modification to the Special Exception, Case No. S-24A, which allowed conversion and expansion of the previous Boys' Dormitory to create the Training Facility, renovation of the Girls' Dormitory and conversion of it into a Boys' Dormitory, construction of a new Girls' Dormitory, construction of seven new parking spaces, and confirmation of Petitioner's ability to serve both adults and children at the shelter program. (Exhibit No. 11).

The Property is currently improved with Boys' and Girls Dormitories, the Training Facility which the Petitioner proposes to modify, the Greentree Shelter building, the Administration building, play fields, parking, walkways, and a telecommunications tower which was approved in a separate Special Exception Case No. S-2389.

3. The Property is identified as "Parcel A" on a plat of subdivision recorded October 28, 1998 at Plat No. 20875. (Exhibit No. 5a). A substantial portion of the northwestern portions of the Property are encumbered with a Forest Conservation Easement which will not be affected by the proposed modification.
4. The Petitioner is not proposing any change to the existing uses on the Property nor will there be any increase in the number of residents on the Property. The requested Modification is to: provide more details on existing structures; increase the height and square footage of the Training Facility; construct a Multi-Purpose Building; add 255 square feet to the southern end of the Boys' Dormitory; improve the central commons

area; increase parking; improve lighting; add loading and landscaping on the Property; and elimination of a prior condition requiring a one-year review hearing. These modifications are all as shown on Exhibit Nos. 27, 28 and 29.

5. The modified and new facilities will provide additional recreation, dining and administrative space for the residents and volunteers/employees on the Property.
6. The Petition is supported by the Drumaldry Homes Association (Exhibit No. 19) and the Department of Juvenile Justice Area III Montgomery County Office (Exhibit No. 20).
7. The number of staff and hours of operation will remain unchanged.
8. As required by the conditions of approval for the Modification granted in 1995, Petitioner created an advisory board and crisis hotline for the neighbors. The Board was functional through 1998 when it was discontinued due to lack of attendance and with the approval of the neighborhood.
9. The proposed total building square footage for the Property is 68,968 square feet, broken down as follows: Administration Building - 11,798 square feet; Greentree Shelter - 12,205 square feet; Boys' Dormitory - 4,950 square feet; Girls' Dormitory - 8,000 square feet; Training Center - 11,600 square feet; and Multi-Purpose Building - 20,415 square feet (Exhibit No. 27).
10. A revised Landscape Plan (Exhibit No. 28), shows the additional landscaping proposed by M-NCPPC staff and agreed to by Petitioner, which will help to buffer the use from the adjoining neighbors.
11. The Photometric Plan (Exhibit No. 29) shows that the proposed lighting will not adversely affect the surrounding neighbors or produce glare. The proposed light poles in the parking lots will be 12 feet in height and have a globe design. Bollard lighting will be located along the pedestrian colonnade (Exhibit No. 28).
12. The Property is covered by the 1990 Bethesda-Chevy Chase Master Plan and is located within the Mid-Bethesda-Northern B-CC area. This area is a mature, stable area predominately zoned R-60, R-90 and R-200 (Exhibit No. 10).
13. The Petition does not raise any transportation issues, because there are no proposed changes to the number of employees or residents. Over the next several years, an additional five employees may be added, but this nominal increase will not have an adverse affect on public roads.
14. With the proposed modifications, the Property will include 75 parking spaces which includes 66 standard spaces, 4 handicap spaces and 2 van-handicap spaces. There will also be 2 loading spaces at the rear of the Training Facility (Exhibit No. 27). This is an addition of 17 parking spaces on the Property.
15. The existing buildings that will be modified and the proposed new structures on the Property will meet all the required setbacks and building coverage criteria. These requirements are as follows:

Development Criteria	Required	Provided
Minimum Lot Area	6,000 square feet	12.48 acres
Minimum Lot Width	60 feet	900 feet

Maximum Building Height	35 feet	26 feet
Maximum Building Coverage	35%	7%
Front Setback	25 feet	55 feet
Side Setback	8 feet	37 feet
Rear Setback	20 feet	312 feet

A petition of support for the proposed modification was submitted by Petitioner with the signatures of 7 neighbors immediately adjacent to the Property (Exhibit No. 37).

16. William R. Landfair, M-NCPPC Technical Staff, analyzed the proposed modifications and recommended approval with conditions (Exhibit No. 18).

FINDINGS OF THE BOARD

Special Exception General Standards

The Board finds that the modification meets the general standards for granting special exceptions found in §59-G-1.2 as follows:

§59-G-1.2.1 Standard for Evaluation

A special exception must not be granted absent the findings required by this Article. In making these findings, the Board of Appeals, Hearing Examiner, or District Council, as the case may be, must consider the inherent and non-inherent adverse effects of the use on nearby properties and the general neighborhood at the proposed location, irrespective of adverse effects the use might have if established elsewhere in the zone. Inherent adverse effects alone are not a sufficient basis for denial of a special exception. Non-inherent adverse effects are physical and operational characteristics not necessarily associated with the particular use, or adverse effects created by unusual characteristics of the site. Non-inherent adverse effects, alone or in conjunction with inherent adverse effects, are a sufficient basis to deny a special exception.

The proposed modifications to the special exception will not impact the general functioning of the special exception use, and there will be no adverse effects on the nearby properties or the general neighborhood caused by any inherent or non-inherent effects of the use. The inherent activities of the modified special exception, a charitable and philanthropic use, include children and families coming and going from the Property as part of their daily routine; deliveries of food, goods and services to the residents; employees and volunteers training and working at the Property; residents engaging in school studies, counseling, meals, recreation and other daily activities; and periodic special events. The activities will not cause any adverse effects on the neighborhood because the Property is large enough to accommodate all of these activities, and the landscaping along the Property provides sufficient buffers from the adjacent lots. Further, the number of residents is limited to 62. The potential non-inherent adverse effects caused by the modified use could be related to its proximity to single-family homes; however, these potential effects are sufficiently mitigated by the design of the use on the Property and the operations.

§ 59-G-1.21 General Conditions

A special exception may be granted when the Board, the Hearing Examiner, or the District Council, as the case may be, finds from a preponderance of the evidence of record that the proposed use:

(1) *Is a permissible special exception in the zone.*

Charitable or philanthropic institutions are permitted by special exception in the R-60 Zone pursuant to Zoning Ordinance Section 59-C-1.31.

- (2) *Complies with the standards and requirements set forth for the use in Division 59-G-2. The fact that a proposed use complies with all specific standards and requirements to grant a special exception does not create a presumption that the use is compatible with nearby properties and, in itself, is not sufficient to require a special exception to be granted.*

The continued use of the Property by the Petitioner with the proposed modifications complies with the standards and requirements set forth for the use in division 59-G-2, specifically section 59-G-2.21 entitled "Charitable or philanthropic institution."

- (3) *Will be consistent with the general plan for the physical development of the District, including any master plan adopted by the Commission. Any decision to grant or deny a special exception must be consistent with any recommendation in an approved and adopted master plan regarding the appropriateness of a special exception at a particular location. If the Planning Board or the Board's technical staff in its report on a special exception concludes that granting a particular special exception at a particular location would be inconsistent with the land use objectives of the applicable master plan, a decision to grant the special exception must include specific findings as to master plan consistency.*

The continued use of the Property by Petitioner, with the modifications, remains consistent with the 1990 Bethesda Chevy Chase Master Plan.

- (4) *Will be in harmony with the general character of the neighborhood considering population density, design, scale and bulk of any proposed new structures, intensity and character of activity, traffic and parking conditions, and number of similar uses.*

The existing use will not be changed, and the design, scale, and bulk of the proposed Multi-Purpose Building and Training Facility will maintain the same character of the Property, which is in harmony with the neighborhood. The buildings are located in the center of the Property, well away from the adjacent neighborhood residents and are generally screened by existing campus buildings and forest conservation areas. When viewed from the entrance, the proposed two-story elevation is a natural transition between the new dormitories and the larger Tudor style buildings. The bulk of the Multi-Purpose Building is reduced by several architectural styles and finishes. The traffic conditions will not change by the proposed structures, and the parking conditions will be improved by the redesign of the front area and the addition of spaces at the rear of the Property. Further, circulation on-site will be improved by the new drive aisle design.

- (5) *Will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the general neighborhood at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.*

The modifications will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the neighborhood. The modifications provide needed upgrades of existing facilities and programs, and will not increase the number of residents served.

- (6) *Will cause no objectionable noise, vibrations, fumes, odors, dust, illumination, glare, or physical activity at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.*

The modifications will not alter the use of the Property nor add any objectionable noise, vibrations, fumes, odors, dust, glare or physical activity. The new buildings will enable residents to have more indoor recreation space.

- (7) *Will not, when evaluated in conjunction with existing and approved special exceptions in any neighboring one-family residential area, increase the number, intensity, or scope of special exception uses sufficiently to affect the area adversely or alter the predominantly residential nature of the area. Special exception uses that are consistent with recommendations of a master or sector plan do not alter the nature of an area*

The modifications do not change the special exception use or its impact on the neighborhood.

- (8) *Will not adversely affect the health, safety, security, morals or general welfare of residents, visitors or workers in the area at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.*

The modifications do not change the existing use and will not adversely affect residents, visitors or workers in the area. The addition of the Multi-Purpose Building and expansion of the Training Facility will better serve the residents and improve their health, safety, security, morals and general welfare.

- (9) *Will be served by adequate public services and facilities including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage and other public facilities.*

The modifications will be adequately served by all public facilities.

- (i) *If the special exception use requires approval of a preliminary plan of subdivision, the adequacy of public facilities must be determined by the Planning Board at the time of subdivision review. In that case, subdivision approval must be included as a condition of the special exception.*

The Property was subdivided and recorded in 1998, so no preliminary plan is required.

- (ii) *With regard to findings relating to public roads, the Board, the Hearing Examiner or the District Council, as the case may be, must further determine that the proposal will have no detrimental effect on the safety of vehicular or pedestrian traffic.*

The modifications will include improvements to internal circulation on the Property of both vehicles and pedestrians, and a better design for the entrance driveway. The number of residents and employees will not change. The minor addition of up to 5 staff people over the next 3 to 5 years will not have any impact on the safety of vehicular or pedestrian traffic.

Special Exception - Specific Standards

The Board finds that the modification meets the applicable specific standards and requirements of §59-G-2.21 as follows:

§59-G-2.21: Charitable or Philanthropic Institution

- (a) *In the One-Family Residential Zones regulated by Section 59-C-1.32, the development standards are as follows: (1) Minimum lot size: twice the minimum required by section 59-C-1.32 . . . (3) Minimum side yard setback: twice the minimum required by section 59-C-1.32 . . . (4) Minimum frontage: twice the minimum required by section 59-C-1.32 . . . (5) Minimum green area: 50 percent. (6) Maximum FAR: 0.2. (7) Maximum lot coverage: half the maximum permitted by section 59-C-1.32 . . . (8) Maximum building height: as specified in section 59-C-1.32 . . . (9) The property must front on and have direct access to a public road built to arterial or higher standards.*

The Property, with the modifications, continues to meet all of the required development standards as evidenced by Exhibit Nos. 27 and 28. The previously granted waiver from (a)(9) continues in force because the Property fronts onto Greentree Road which is not an arterial road. The special exception use as modified will continue to operate safely from this roadway.

- (f) *Adequate parking must be provided on site in accordance with the requirements for a general office, as stated in Section 59-E-3.7 and the setback and screening standards of Sections 59-E-2.8 and 59-E-2.9, respectively.*

The modifications include providing a total of 75 parking spaces on the Property. This will be sufficient for the use which includes 23,837 square feet of office (calculated at 2.4 spaces per 1,000 square feet, or 58 spaces) and 62 beds (calculated at 1.0 spaces per bed, or 16 spaces) for a total requirement of 74 spaces. These calculations are shown on Exhibit No. 27.

Sections 59-G-2.21 (b), (c), (d), (e) and (g) are not applicable to the requested modification.

Conditions

Based upon the foregoing, the Board grants the Special Exception Modification for a Charitable or Philanthropic Institution, subject to the following conditions:

1. All terms and conditions of the approved Special Exception remain in full force and effect, except as modified herein.
2. The Petitioner is bound by all submitted statements and plans, and construction of the facilities will be in accordance with Exhibit Nos. 25, 26, 27 and 28.
3. Approval of a tree protection plan by M-NCPPC Environmental Planning Staff prior to release of sediment and erosion control or building permit, as appropriate.
4. Compliance with Montgomery County Department of Permitting Services requirements for stormwater management and sediment and erosion control.
5. Petitioner will create a Neighborhood Coordinating Committee ("NCC") to discuss ongoing operations of the special exception use. The NCC will include the People's Counsel and interested neighbors, with invitations for inclusion specifically extended to the immediately adjoining and confronting property owners. The NCC shall meet 4 times per calendar year.
6. The color of the materials used on the roofs and shingles of the proposed Multi-Purpose Building and Training Facility shall match as closely as possible the colors as depicted on Exhibit Nos. 32 and 36.

On a motion by Alison Fultz, seconded by Louise L. Mayer, with Chairman Donald H. Spence, Jr. and Donna L. Barron in agreement, the Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the opinion stated above is adopted as the resolution required by law as its decision on the above-entitled case.

Board member Angelo Caputo was necessarily absent and did not participate in the Resolution.

Donald H. Spence, Jr.
Chairman, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 1st day of March, 2002.

Katherine Freeman
Executive Secretary to the Board

NOTE:

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and any party to the proceeding before it, to the Circuit Court for Montgomery County in accordance with the Maryland Rules of Procedures.

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (see Section 59-A-4.63 of the Zoning Ordinance). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

See Section 59-A-4.53 of the Zoning Ordinance regarding the twenty-four month period within which the special exception granted by the Board must be exercised.
See Section 59-A-3.2 of the Zoning Ordinance regarding Use and Occupancy Permit for a Special Exception.